

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.1695 of 2006

Shri Balasahab P. Barale & ors.	Petitioners
Vs.	
Vinayak P. Barale	Respondent
Mr.C.K.Pendse for petitioners.	
Mr.Rahul P. Walvekar for respondent.	

CORAM: B.H.MARLAPALLE,J.

June 21, 2006.

P.C.

. Heard. Rule. Respondent waives service.

. By consent of the parties the Rule is made
returnable forthwith.

. Regular Civil Suit No.1951 of 2000 has been
filed by the present respondent and is pending in the
Court of the 8th Jt. Civil Judge, Junior Division at
Kolhapur and in the said Suit after the defendant
filed Written Statement, he was directed to produce
the sale deed dated 6/1/1998 which was in his
possession, as per the order dated 23/10/2001. He
was required to produce the sale deed on or before
20/11/2001. It was noticed that the defendant had
failed to comply with this order dated 23/10/2001
and, therefore, the learned 9th Jt. Civil Judge,

Junior Division at Kolhapur by his order dated 11/10/2002 struck off the defence of the defendant.

. An application at Exhibit 34 came to be filed in RCS No.1951 of 2000 on or about 16/12/2005 praying for setting aside the order dated 11/10/2002 striking off the defence of the defendant. This application has been rejected by the impugned order dated 10/2/2006 by the learned 3rd Jt.Civil Judge, Junior Division at Kolhapur. Pursuant to the order passed by this Court on 14/3/2006 the petitioner-defendant has deposited an amount of Rs. 10,000/- to show his bona fides to go ahead with the trial of the suit by taking due steps and without seeking any further adjournments. The said amount has been deposited on 27/3/2006 with the Registry of this Court. The suit is pending for about six years and it is in its final stages of disposal.

. The petition is, therefore, allowed and the order dated 11/10/2002 is hereby quashed and set aside. Consequently the application at Exhibit 34 stands allowed. Regular Civil Suit No.1951 of 2000 shall be heard and decided by 31st December 2006 and the defendant has furnished an undertaking before

this Court that he will not seek any adjournment before the trial Court. The amount of Rs.10,000/- deposited with the Registry of this Court shall be transferred to the trial Court and will be payable to the plaintiffs, but only after the suit is finally decided. Rule made absolute accordingly.

(B.H.MARLAPALLE,J.)